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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,261	09/16/2003	Martin A. Frith	ZL 0258	1454
23367	7590	10/13/2005		
GENE WARZECHA LINVATEC CORPORATION 11311 CONCEPT BOULEVARD LARGO, FL 33773			EXAMINER SMITH, PHILIP ROBERT	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,261

Applicant(s)

FRITH ET AL.

Examiner

Philip R. Smith

Art. Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

[01] The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

[02] Claim 1 and all claims that depend on it are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

[03] Recited is "at least one magnet situated on said rocker adjacent one of said ends," later referred to as "each said magnet." The phrase "each said magnet" will be interpreted as "the at least one magnet."

Claim Rejections - 35 USC § 102

[04] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[05] Claims 1-2 & 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Petersen (5630417).

[06] With regard to claims 1-2: As previously noted, Petersen discloses a body (comprising "control housing 12") and

[06a] a rocker switch ("control button 30," 4/24-25), the rocker switch comprising a rocker having a front end and a rear end, and pivotably attached to said body about a pivot axis ("pin 34," 3/56-59) at a point intermediate said front

and rear ends;

- [06b] a spring interposed between each of said front and rear ends and said body, each spring to bias said rocker in a direction opposite the other spring means in order to bias said rocker toward a neutral position ("biased to return to its neutral position by positioning four springs (not shown) between the control button and the recess 32," 4/13-15);
- [06c] at least one magnet situated on said rocker ("38") adjacent one of said ends, said magnet movable within a predetermined range as said rocker is pivoted about said pivot axis;
- [06d] at least one Hall effect sensor ("hall-effect sensor 42," 4/23-25) situated in said body and associated with the at least one magnet, said Hall effect sensor and said associated magnet spaced from each other a predetermined distance when said rocker is in said neutral position;
- [06e] whereby pivoting motion (alternately "tilted fully forward," 3/67-4/3 and "fully tilted in the opposite direction," 4/4-5) of said rocker switch will alter the distance between said magnet and said Hall effect sensor for facilitating a first function of the endoscopic camera when the distance between said Hall effect sensor and said magnet is decreased and a second function of the endoscopic camera when said distance between said Hall effect sensor and said magnet is increased (alternately, "[rotation] at maximum speed" and "[rotation] at maximum speed in the reverse direction").

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[07] With regard to claim 8: This claim is rejected for the reasons set forth in the Office action of 5/17/2005.

Claim Rejections - 35 USC § 103

[08] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[09] Claims 1-2, 8 & 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff in view of Tamura.

[10] With regard to claims 1-2: As noted in the Office action of 5/17/2005, Wolff discloses a body (comprising "pivot bracket 36") and

[10a] a rocker switch ("rocker type switch 29," 4/54-55), the rocker switch comprising a rocker having a front end and a rear end, and pivotably attached to said body about a pivot axis ("pivot point 32," 4/55-57) at a point intermediate said front and rear ends;

[10b] a spring interposed between each of said front and rear ends and said body, each spring to bias said rocker in a direction opposite the other spring means in order to bias said rocker toward a neutral position ("spring biasing means," 4/57);

[10c] a plurality of magnets situated on said rocker ("magnets 30 & 31," 4/54-55) adjacent one of said ends, said magnet movable within a predetermined range as said rocker is pivoted about said pivot axis;

[10d] a plurality of sensors ("magnetic switch 34" and "magnetic switch 36," 4/59-

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5/2) situated in said body and associated with the plurality of magnets, said sensor and said associated magnet spaced from each other a predetermined distance when said rocker is in said neutral position ("neutral position," 4/57-58);

[10e] whereby pivoting motion (alternately "forward portion 33 of the rocker switch is depressed...", 4/59-65 and "rear portion 35... depressed...", 4/65-5/2) of said rocker switch will alter the distance between said magnet and said sensor for facilitating a first function of the endoscopic camera when the distance between said sensor and said magnet is decreased and a second function of the endoscopic camera when said distance between said sensor and said magnet is increased (alternately, "zoom out" and "zoom in").

[11] Wolff does not disclose that the plurality of sensors("magnetic switch 34" and "magnetic switch 36," 4/59-5/2) situated in said body and associated with the at least one magnet is a Hall effect sensor.

[12] As noted in the Office action of 5/17/2005, Tamura discloses in [0058] the following: "It is noted that [hall effect] switch 118 could also be a reed switch or any other magnetic sensor without departing from the spirit of the invention." At the time of the invention, it would have been obvious to a person of ordinary skill in the art to replace the magnetic switches disclosed by Wolff with the Hall effect sensor disclosed by Tamura, as they are well-known alternatives.

[13] With regard to claims 8 & 14-17: These claims are rejected for the reasons set

forth in the Office action of 5/17/2005. The addition of the word "associated" to claim 15 does not significantly narrow the scope of the claim; the fact that the sensor and magnets compose a single invention represents an association between the two.

Response to Arguments

- [14] Applicant's arguments filed 9/6/2005 have been fully considered but they are not persuasive.
- [15] With regard to the rejections under 35 U.S.C. §102, Applicant first contends that the Petersen arrangement "requires an adjustment mechanism to define a neutral switch position." Applicant offers no support for such a statement except to say that "the neutral position of the claimed invention is inherently defined by the position at which the rocker switch comes to rest by virtue of the counter-balancing forces produced by the springs at each end of the rocker." As stated above, Petersen discloses a neutral position and a plurality of springs for defining that neutral position; the delineation made by the Applicant between the claimed invention and the Prior Art is unclear.
- [16] Applicant further contends that Petersen does not disclose or suggest "a pivotable rocker which selectively varies the distance between a single magnet and a single associated Hall effect sensor." Certainly, either of the magnets disclosed by Petersen fits this description.
- [17] Applicant further admits that dome springs are well-known, but contends that "the

use of dome springs... is not disclosed by Petersen." As stated previously, springs come in many different forms, dome springs being one form of spring which is familiar to those of ordinary skill. In reduction to practice, given that a particular form of spring being required, the well-known dome spring is anticipated by Petersen.

[18] With regard to the rejections under 35 U.S.C. §103, Applicant contends that "[n]either Wolff nor Tamura disclose or suggest that reed switches operate with a magnet that must be situated in a neutral position and moved closer to or farther away from the reed switches to produce varying voltage signals." On the contrary, Wolff discloses precisely this, as later noted by the Applicant: "In the Wolff device a pair of elements comprising a magnet and an associated reed switch is only able to close a circuit or, at most, produce two signals, on or off." The characterization that the circuit is on or off represents a varying voltage signal, but this in fact a mischaracterization: the circuit is either off (neutral), or on (zoom in), or on in reverse (zoom out).

[19] Applicant further disagrees with the assertion that Wolff discloses a neutral position, stating as support that Wolff does not disclose operation in which "moving a magnet relative to an associated Hall-effect sensor will control a function both as the magnet moves closer to the sensor and as it moves further away." As noted previously, the Hall effect sensor associated with a given magnet (as disclosed by Wolff in view of Tamura) will open or close as the magnet moves closer or further away; at a given distance, the switch will flip.

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[20] Applicant further contends that "Wolff does not disclose or suggest a switch having a biased neutral position for each pair of associated magnets and switches." As noted previously, the 'off' operation as correctly understood by the Applicant is considered just such a neutral position.

[21] Applicant finally contends that "the associated magnet and switch at the front end of rocker switch 29 is either on to off and moving the magnet further away from the switch does not produce any function." In short, Applicant asserts that the invention disclosed by Wolff does not function. As stated previously, it is maintained that Wolff discloses a rocker switch with a neutral position in which depression of opposing ends results in opposing functions. This is the result of magnets moving with respect to associated sensors in the manner claimed by the Applicant.

Conclusion

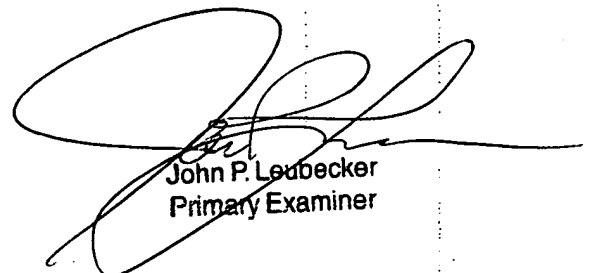
[22] **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

[23] A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

- [24] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [25] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [26] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

[27] prs



John P. Leubecker
Primary Examiner